

AGREEMENT

WHEREAS, the City of New York ("City") is the owner of certain undeveloped waterfront property located in Sheepshead Bay, New York and designated as Block 8844, Lot 50 (the "Property," the "City's Property" or "Lot 50") on the Tax Map of the City of New York, Kings County.

WHEREAS, Emmons Avenue Marina LLC. ("Emmons LLC") has owned Block 8844, Lot 10, which adjoins the City's Property ("Lot 10" or "Adjoining Lot 10") since December 15, 2008;

WHEREAS, Marina Holding Corp. ("Marina Holding") owned Adjoining Lot 10 prior to December 15, 2008;

WHEREAS, Marina Holding used and occupied the City's Property without the City's permission from December 31, 2005 through December 14, 2008;

WHEREAS, Emmons has used and occupied the City's Property without the City's permission from December 15, 2008 through the present;

WHEREAS, on May 26, 2011, the City served Emmons LLC and Marina Holding each with a Notice to Quit ("Notice to Quit"), which required that they vacate the City's Property by June 30, 2011;

WHEREAS, Emmons LLC did not vacate the City's Property by June 30, 2011, and Marina Holding claims that it was no longer using or occupying the City's Property on that date; and

WHEREAS, the City, Emmons LLC, and Marina Holding (referred to together herein as the "Parties") desire to resolve the matter of Emmons LLC's and Marina Holding's unauthorized use and occupancy of the City's Property, amicably and without the need for litigation.

THEREFORE, IT IS HEREBY AGREED by and between the Parties herein and their respective counsel, that Emmons LLC's and Marina Holding's unauthorized use and occupancy of the City's Property is resolved upon the following terms and conditions ("Agreement"):

1) Emmons LLC acknowledges that the City is the fee owner of Block 8844, Lot 50, and that it has no rights, title, claims or interest in the City's Property, more particularly described in the metes and bounds description annexed hereto as Exhibit A, which is incorporated herein by reference ("Metes and Bounds").

2) Marina Holding acknowledges that the City is the fee owner of Block 8844, Lot 50, and that it has no rights, claims or interest in the City's Property.

3) Emmons LLC acknowledges that Marina Holding is a related entity.

4) The Parties acknowledge that Marina Holding originally occupied the City's Property¹ pursuant to a one-year permit with the City, issued through the New York City Department of Citywide Administrative Services ("Marina's Permit" or "Permit"). Marina's Permit contained two one-year renewal periods, both of which were exercised by Marina Holding. Marina Holding acknowledges that its Permit, which commenced on or about September 17, 2003,² expired on December 31, 2005.

5) Marina Holding acknowledges that it did not vacate the City's Property upon the expiration of its Permit, and used and occupied the City's Property without the City's permission from December 31, 2005 through December 14, 2008, the day before it transferred title to Lot 10 to Emmons LLC.

6) Emmons LLC acknowledges that it has been using and occupying the City's Property (Lot 50) without the City's permission since December 15, 2008, the date that it took title to Lot 10, until the present.

7) Emmons LLC and Marina Holding each acknowledge that the City served it with a Notice to Quit on May 26, 2011, which required them to vacate the City's Property by June 30, 2011.

8) Emmons acknowledges that it did not vacate the City's Property on June 30, 2011, and is still using and occupying it.

9) Marina Holding represents that it was no longer using and occupying the City's Property at the time it was served with the Notice to Quit.

10) Robert A. Spiegelman, Esq. represents that he is the Vice-President of both Emmons LLC and Marina Holding.

11) Robert A. Spiegelman, Esq., as Vice-President of Marina Holding, hereby verifies that Marina Holding has no assets including, without limitation, bank accounts, cash, bonds, stocks, and/or real property.

Past Use and Occupancy

12) Emmons LLC agrees that it will pay the total negotiated sum of \$499,225.53 ("Past U & O Funds") to the City as compensation for Emmons LLC's and Marina Holding's use and occupancy of the City's Property through April 15, 2015, and that \$60,000 of the Past U & O Funds is attributable to Marina Holding's unauthorized use and occupancy of the City's Property, and the remaining balance of

¹ Marina's Permit also allowed it to use and occupy City-owned Block 8844, Lot 375.

² The permit only allowed Marina Holding to use the dry upland, and did not allow the use of the water or land under water.

\$439,225.53 is attributable to Emmons LLC's use and occupancy of the City's Property.

13) Emmons LLC agrees to pay to the City the sum of \$499,225.53, representing the negotiated Past U & O Funds immediately upon executing this Agreement. Payment is to be made by certified check, bank draft check or bank check made payable to the order of The City of New York, which shall be hand-delivered to Mindy R. Koenig, Senior Counsel, at the New York City Law Department, 100 Church Street, Room 3-120, New York, New York 10007. The Past Use & Occupancy Funds are non-refundable, as they represent compensation for the past unauthorized use and occupancy of the City's Property by Emmons and Marina.

14) Emmons LLC, and Marina Holding, for valuable consideration received from the City of New York, each hereby acknowledges, releases and discharges the City of New York, and its officials, agencies, employees, representatives and agents, past and present, heirs, executors, administrators, successors and assigns from all actions, causes of action, suits, debts, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, negligence, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which as against the City, Emmons LLC, and Marina Holding, each of their successors and assigns ever had, now have or hereafter can, shall or may have, for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of this Agreement, including but not limited those claims arising out of Emmons LLC's and/or Marina Holding's past use of the City's Property, and/or the permit(s) previously entered into by Marina Holding with the City in connection with the City's Property.

15) Emmons LLC and Marina Holding each further agree to indemnify the City against all claims by third parties arising out of his/her/their/its presence on or use of the City's Property, including but not limited to claims sounding in tort or contract.

16) For valuable consideration received from Emmons LLC, and once the Past U & O Funds of \$499,225.53 have fully cleared from Emmons LLC's financial institution into the City's account, the City shall acknowledge, release and discharge Emmons LLC, and Marina Holding, their officers, agents, employees, and representatives, past and present, heirs, executors, administrators, successors and assigns from all claims by the City for trespass and use and occupancy damages through April 15, 2015 in connection with the City's Property.

Emmons Future Use of The Property

17) Once Emmons LLC pays the Past U & O Funds of \$499,225.53 to the City, which is required to be paid simultaneously with its execution of this Agreement, the City will seek approval from the Franchise and Concessions Review Committee ("FCRC") to negotiate a sole source occupancy permit with Emmons LLC, to use and occupy 52,940 square feet of uplands and lands under water, a/k/a Block 8844, Lot 50, Brooklyn, New York, for dry boat storage, docking, retail sales, repair of boats and business accessory parking, all in connection with the operation of Emmons LLC's marina business operated on the Adjoining Property (Lot 10) named Venice Marina, and the land under water within the boundaries of the City's Block 8844, Lot 50, for docking vessels and jet skis ("FCRC Request").

18) Simultaneously with the execution of this Agreement, Emmons will execute the proposed Permit annexed hereto as Exhibit B, for the use of the City's Property as described in paragraph 17, above ("proposed Permit").

19) Emmons LLC acknowledges and understands that the City cannot execute the proposed Permit until it receives approval of the City's FCRC Request from the FCRC and approval from the New York City Law Department as to form.

20) Emmons LLC agrees that it will fully cooperate with the City in furtherance of the City obtaining FCRC approval for the proposed Permit.

21) The City agrees to execute the proposed Permit³ for Emmons LLC's use and occupancy of the City's Property within seven (7) business days after receiving approval from the FCRC of the City's FCRC Request as well as approval from the Law Department, as to the form of the proposed Permit. If approved, the permit will be for a term of one (1) year with two (2) one-year options to renew ("Emmons Permit"). Pursuant to the terms of the proposed Permit, the fee for the first year will be \$119,000, payable in twelve equal monthly installments of \$9,325. If renewed, the fee for the second year will be \$125,790, payable in twelve equal monthly installments of \$10,482.50. If renewed for a third year, the fee for the Emmons LLC's Permit will be \$134,295.50, payable in twelve equal monthly installments of \$11,191.29.

22) If the FCRC Request is approved by the FCRC and the proposed Permit is approved by the Law Department, as to form, Emmons LLC's Permit will be deemed to have commenced on April 15, 2015, and the permit fee of \$119,000 will be deemed to have commenced as of that date.

³ Providing, that the FCRC does not require changes to the Permit.

23) If the FCRC approves the City's FCRC Request, Emmons agrees that it will pay the monthly permit fee of \$9,325 retroactive to April 15, 2015, immediately upon being notified by that by the City that it had executed the Permit.

24) Emmons LLC agrees that if the FCRC denies the City's FCRC Request, Emmons LLC, and any successor entity to Emmons LLC will pay to the City the amount of \$9,325 per month, for its use and occupancy of the City's Property from April 15, 2015 to the time it vacates the City's Property. If the Emmons LLC does not vacate the City's Property within thirty (30) calendar days after receiving notice from the City that the FCRC Request was denied, it will pay a use and occupancy rate to the City of \$9,325 per month or the current market value of the Property, the choice being in the sole discretion of the City from the date it was required by this Agreement or by the notice to vacate the City's Property. Emmons LLC also agrees to pay attorney's fees and other fees to the City in connection with removing it, any related entity and/or any entity or any individual on the City's Property with Emmons LLC's consent, subsequent to the date that Emmons was required to vacate the City's Property.

25) Emmons LLC acknowledges that it has inspected the City's Property and has walked the Property line with the City in October 2014, and that it is aware of the boundaries of the City's Property, and the existence of any and all encumbrances and occupants.

26) Emmons LLC agrees that its occupancy rights under the Permit, once approved, are subject to all existing encumbrances and occupancies and any rights that the occupants may have, if any.

27) Emmons LLC agrees that if the FCRC does not approve the City's FCRC Request, Emmons LLC, every related entity, and every individual or entity on the City's Property with Emmons' consent, must vacate the City's Property within thirty (30) calendar days after receiving notice from the City that the FCRC denied the City's FCRC Request. Emmons LLC acknowledges the City's right to use self-help in the event that Emmons LLC does not vacate the City's Property within thirty (30) calendar days from receiving such notification, and agrees not to interfere, in any way with the City right to use self-help to remove it and any personal property remaining on the City's Property, which shall be deemed abandoned. In that event, the City shall have the right to either keep or dispose of said personal property remaining on the City's Property.

28) Emmons LLC agrees that it is the legal entity that will be occupying the City's Property under the Permit, once approved, and will be operating Venice Marina, the marina business located on Emmons LLC's Lot 10.

29) Emmons LLC understands and agrees that if it transfers title to Lot 10 to another entity, its Permit to use the City's Property (Lot 50) shall immediately and automatically terminate. Emmons LLC also agrees that it will advise the City of such transfer of title at least one business days prior to such transfer, and will vacate the City's Property, removing all

personal property located thereon, which shall be deemed abandoned as set forth in paragraph 27, above. Emmons further agrees that if after 30 days from the date title to Lot 10 is transferred, it has not vacated the City's Property, it will not in any way interfere with the City's right to use self-help to remove any personal property remaining on the City's Property, and will pay to the City all attorney's fees and other fees related to removing it from the City's Property.

30) The Parties agree that this Agreement is the result of extensive negotiations between each of the Parties and their attorneys and that each Party shall be deemed the drafter of this Agreement for the purposes of interpretation.

31) This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto. Emmons may not transfer, assign nor allow any other entity or individual to assume the rights or obligations under this Agreement or the permit to Emmons, should it be approved, without the prior written approval of the City.

32) Robert A. Spiegelman, Esq. acknowledges that he is the attorney representing Emmons LLC and Marina Holding with respect to this Agreement.

33) Emmons LLC and Marina Holding each consent to Robert A. Spiegelman, Esq. representation of each of them in negotiating this Agreement, and each waive any and all conflicts of interest arising out rise out of attorney Spiegelman's dual representation.

34) The undersigned attorneys represent that they have the power and authority to enter into this Agreement on behalf of their respective clients.

35) This Agreement constitutes the entire Agreement between the Parties and fully supersedes and replaces any prior oral or written communications, representations, or understandings concerning the terms of this Agreement.

36) The Parties acknowledge that they have not relied on any representations, promises, or agreements of any kind made to them in connection with their decision to accept this Agreement, except for those expressly set forth in this Agreement.

37) This Agreement may not be modified, altered or changed except upon express written consent of an authorized representative of each of the Parties, wherein specific reference is made to this Agreement.

38) If any provision of this Agreement is held to be unenforceable for any reason, the remaining parts of the Agreement shall remain in full force and effect.

39) This Agreement is governed by the law of the State of New York, and its terms shall be construed and interpreted in accordance with New York law, without giving effect to the conflicts of laws principles. The Parties agree that the courts of the State of New York and the City of New York shall be the exclusive venue for any disputes arising from or relating to this Agreement.


40) This Agreement may be executed in counterpart, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

41) Facsimile and emailed signatures may be deemed originals for all purposes.

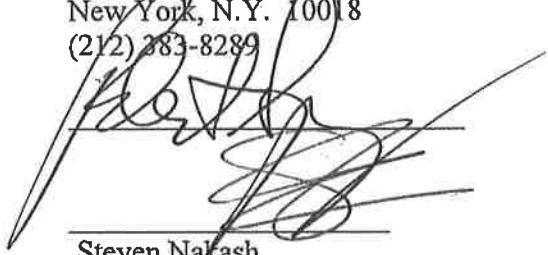
Dated: New York, New York
February 29, 2016

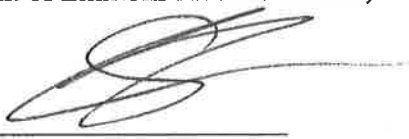
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